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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1982

Addendum

CENTRAL AFRICAN REPUBLIC

[28 October 1987]

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INITIAL REPORT SUBMITTED BY THE CENTRAL AFRICAN REPUBLIC UNDER ARTICLE 40 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Since acceding to independence, the Central African Republic has had several Constitutions, of which two were liberal and one imperial. Most, if not all, were preceded by Constitutional Acts. It is obvious that the Central African Republic experienced a certain amount of instability which may, at a particular time in its history, have created the conditions necessary for generating violations of the recognized rights of its citizens. It is a matter for satisfaction, however, that the legal system of the Central African Republic always assigned special importance to the protection of those rights. In order to understand the measures taken by the Government of the Central African Republic since 1981, one needs to look back at political developments in that country since 1966.

1. POLITICAL DEVELOPMENTS IN THE CENTRAL AFRICAN REPUBLIC SINCE 1966

1.1. The military régime of 1966 to 1976

(a) Regrettably, this period was marked by a Fascist, authoritarian and dictatorial régime. After dissolving the National Assembly, abrogating the Constitution and bringing political life to a standstill, the Government ruled by decree. At the level of the State or Government apparatus, power was concentrated in the hands of a single man who was at one and the same time Head of the Government, Commander-in-Chief of the Armed Forces, Minister of Defence, President of the sole trade union organization, the General Union of Workers of the Central African Republic (UGTC), and President of the single party, the Mouvement de l'Evolution en Afrique Noire (MESAN).

(b) In those circumstances, it was no easy task to strive to attain the long-standing objectives of the party whose watchword was "food, housing, clothing, education and care". Instead, any measure designed to respond to the expectations of the population was nothing less than political heresy, which rendered its author liable to serious punishment. Arbitrary arrest, political crimes, tribal and racial discrimination and other inhuman practices were the order of the day, and articles 258 and 159 of the Code of Criminal Procedure, which stipulate that crimes and offences committed in peace-time are judged by military courts, were deliberately ignored.

(c) The preamble to the 1976 Imperial Constitution laid down similar provisions. However, that Constitution was systematically flouted by a power whose stock response was brute force. A mere denunciation involved for the accused person and his family the worst torture and very often a harsh sentence.

(d) In the rare cases where an act was tried by the courts, the rulings given were always based on a violation of the principles concerning the existence of evidence. Using that expedient, unsubstantiated charges were brought against nationals and aliens. High treason, whose sphere of application is confined to offences against State security, was a favourite charge. The concept of an enemy, which is a legal term, became a psychological attitude based on the syndrome of tribalism. The invocation of such an offence was tantamount to an instrument of unlimited repression, retroactive in effect and generally encompassing all the members of the victim's extended family.

(e) All that remained in the economic sector was crippling taxation, rudimentary agriculture, virtually non-existent industry, a reduced labour market, a bloated civil service and steadily declining purchasing power. In other circumstances and elsewhere, it would have been logical for political forces to assert themselves. However, since there were no political forces in the Central African Republic, it was left to schoolchildren to challenge the power of the monarch, at the cost of their lives.

(f) The monarch then proceeded to take measures of escalation, including torture and infanticide; these finally alerted African and international opinion, whose efforts ultimately established the dictator's responsibility in the crimes perpetrated against children.

1.2. The restoration of democracy, 1979 to 1981

(a) Following the coup d'état of 20 September 1979, President David Dacko, not without reluctance, was obliged to respond to the aspirations of the oppressed people which demanded and obtained, on 5 February 1981, a liberal Constitution whose outstanding feature was a multi-party system. Five political parties (the UDC, MLPC, PRP, FPOPT and Independent Party) submitted social plans to a people on whom the Constitution had conferred all fundamental rights and freedoms, including freedom of thought, freedom of expression, freedom to vote, freedom of the press, trade union freedom, freedom of movement, etc.

(b) Unfortunately, the competitive model built on the ruins of a tribal model of government was unable to survive the rivalries of the party leaders who misapplied it. In the circumstances, the only possible outcome was the seizure of power, on 1 September 1981, by the Military Committee for National Recovery (CMRN), led by General André Kolingba.

1.3. Political life in the Central African Republic from 1981 to 1987

(a) The Military Committee for National Recovery suspended the liberal Constitution for the reasons already explained, but it continued to respect and enforce the provisions relating to the fundamental rights conferred on citizens (cf. Constitutional Acts Nos. 1 and 2).

(b) It should be noted, however, that although the preventive measures applied to certain individuals in the aftermath of the abortive coup d'état of 2 March 1982 appeared, at one time, likely to invalidate the legal machinery for the protection of the rights of the individual, this was only to enable the court to play its role as the foremost guardian of those rights. This unremitting concern to secure justice as a genuine social need enabled the people of the Central African Republic, once its economy had recovered and its public image had been restored, to acquire a Constitution of which human rights formed an integral part. Evidence of that concern is provided by the trial of the former Emperor Bokassa, defended by four lawyers, two French and two nationals of the Central African Republic.

PART 1

A. GENERAL FRAMEWORK FOR THE IMPLEMENTATION OF THE RIGHTS GUARANTEED BY THE COVENANT

The mechanisms, namely, the procedures stemming from the legislative act and intended to guarantee the protection of the fundamental rights of the individual, may be seen at four levels:

1. At the international level

(a) In its quest for peace, the Central African Republic has consistently maintained that "man is the purpose of our action". 1/ This means that any activity conducted inside or outside the United Nations should, in the final analysis, take the human aspect into consideration.

(b) At the thirty-third session of the United Nations General Assembly, the Central African Republic proclaimed its position as follows: "When will it finally be understood that nothing lasting can be achieved in this forum, the supreme forum for our deliberations, without a total commitment to the defence - not selective, but global - of the most fundamental rights and values of all men, whose quest for an ever-brighter tomorrow should constantly be identified with the demands for equality, liberty, justice, security and peace?" 2/

(c) In order to give tangible support to this view, the Central African Republic has acceded to a number of international human rights instruments. They include the:

International Covenant on Civil and Political Rights;

International Covenant on Economic, Social and Cultural Rights;

International Convention on the Elimination of All Forms of Racial Discrimination;

African Charter on Human and People's Rights;

Convention relating to the Status of Refugees, concerning which the Central African Republic notified its accession on 30 August 1962;

Protocol relating to the Status of Refugees;

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

(d) The Central African Republic has also acceded to scientific, cultural and other conventions, including International Labour Conventions concerning which it is required to report annually to the International Labour Office on the implementation of each convention ratified, thus allowing the International Labour Organisation to monitor effective application of those instruments.

(e) The opinions and suggestions offered by these agencies to the Government in respect of employment and national institutions (inspection of employment and social security, employment advisory committees) 3/ means that the implementation of the International Labour Conventions creates fewer problems at the practical level.

(f) Also, Act No. 65/71 of 3 June 1965 concerning the binding force of laws, administrative acts and treaties, the time factor in the conflict of laws and the status of aliens states in article 16 that "All treaties shall become enforceable upon completion of the formalities prescribed by the Constitution. They shall become binding only by publication in the Journal Officiel".

(g) Article 17 (2) of the Act specifies the procedure for publication, for indicating any parts that may give rise to conflicts, for reproducing the text of the treaty and its annexes as well as any reservations affecting signature, ratification or accession by one of the parties, which might have authorized ratification or accession.

(h) Because of the importance accorded to the treaty and its primacy over national law, the Constitution confers on the National Assembly, i.e. the legislature, the power to authorize its ratification (article 13 of the Constitution).

2. At the legislative and constitutional level

(a) The constituent body has conferred on the National Assembly the power to enact legislation on clearly specified subjects, including those affecting the fundamental rights of the individual.

(b) Article 22 of the Constitution states that "The law lays down general principles regarding the following subjects:

Nationality;

The organization of the electoral system and the financial arrangements for local authorities;

The legal system for commercial firms;

The determination of crimes and offences and the penalties applicable to them;

The legal régime applicable to land;

The general principles relating to the organization of education, labour rights, etc. ... ".

(c) Before a law is published, the Supreme Court ascertains whether its provisions are consistent with the Constitution. This check on the constitutionality of laws is an additional guarantee of the protection of human rights (article 32 of the Constitution).

3. At the administrative level

(a) The Executive Branch of the Central African Republic, which has the task of ensuring that the services necessary for social life are well organized and run smoothly, cannot infringe with impunity the rules that pertain to the rights of the individual, ownership rights, economic and social rights, political rights, etc.

(b) Thus, if an expropriation has to be carried out in the public interest, a lengthy and carefully conducted procedure calls for the participation of a judge and, if no mutually agreed settlement is reached between the Executive Branch and the individual, it permits compensation to be obtained for the losses incurred. 4/

(c) As far as admission to the public service is concerned, recruitment is carried out by means of competitive examinations or according to qualifications. The Senior Civil Service Board reserves the right to monitor requirements for entry and for the promotion of public servants.

(d) The Disciplinary Board gives its opinion and proposes penalties in the event of professional misdemeanour, with the result that arbitrary conduct is no doubt prevented.

4. At the judicial level

(a) In the Central African Republic, the courts are the foremost guardians of the rights of the individual.

(b) Since 1966, traditional or customary courts have been abolished to enable persons who are to be tried to be brought before judges who apply modern law, using an identical procedure and, in the case of an offence, to have the same laws applied. This guarantees equal justice for all.

(c) Legal aid

(i) In the Central African Republic, poverty is not an obstacle which prevents needy persons from defending themselves in court. Legal aid exempts them from paying the costs incurred by their defence. 5/

(ii) Similarly, in the criminal court, when an accused person incurs the risk of a heavy penalty, the law obliges the President of the court to appoint, ex officio, a defence counsel from among the barristers present on the bench to defend an accused person who has not himself selected counsel (article 188 (b) of the Code of Criminal Procedure).

(iii) The defence counsel thus designated enjoys special protection in criminal and civil proceedings as well as in commercial and administrative proceedings. This twofold concern for the presentation of the defence as well as the protection of defence counsel is so sacrosanct that the superior courts - the Court of Appeal and the Supreme Court - punish its violation by quashing proceedings as from the level where the rule was not observed.

(d) The charge

(i) Any individual charged with any criminal act whatever is presumed innocent until his guilt has been legally established.

(ii) All police action against any person suspected of an offence or a crime is subject to the control of an official of the Public Prosecutor's Office (articles 15, 22 and 23 of the Code of Criminal Procedure).

(e) The principle of the inviolability of the domicile

The principle of the inviolability of the domicile is the subject-matter of article 32 (b) of the Code of Criminal Procedure, which states that "searches of premises may take place only from 5 a.m. to 6 p.m. other than in the case of a request made by an occupant of the house or in accordance with the exceptions prescribed by law".

(f) Police custody

(i) In a case of flagrante delicto, a criminal police officer may detain any suspect in custody for 48 hours if an official of the Public Prosecutor's Office resides in the locality. This period may be extended only by decision of the judge (article 35 (a) of the Code of Criminal Procedure).

(ii) If, however, the criminal act was committed in a locality where it is not possible to bring the accused before a judge, the period of police custody is 15 days and may be extended (article 35 (b) of the Code of Criminal Procedure).

(iii) In case of flagrant delicto, the period of the detention in custody may be extended to eight days by decision of the Public Prosecutor's Office. 6/

(iv) Crimes and offences which come within the jurisdiction of the Permanent Military Court set up by Ordinance No. 85,013 of 19 April 1985 are prosecuted and investigated in accordance with the rules of ordinary law, subject to article 16 which provides that "notwithstanding the provisions of the Code of Criminal Procedure, the period of police custody may be extended to one month in the event that the Permanent Military Court is called upon to deal with the acts listed in articles 4 and 5 above. 7/ It may be renewed for a period of one month."

(v) Ordinances Nos. 81/035 and 81/010 also set up a special court to try crimes and offences against the internal and external security of the State. In this particular case, the investigation is also conducted in accordance with the rules of ordinary law.

(vi) There are many rules of this kind relating to the principles of the lawfulness of the offence, the lawfulness and individual application of the penalty and the non-retroactivity of the law, rules which are intended to protect the rights of the human person against arbitrariness or the possibility of error. They are scrupulously applied by judges on pain of the final decision being overturned.

(vii) For instance, if a verdict is rendered without the accused or his defence counsel having had an opportunity to speak last of all, it may be set aside in the event of an appeal based on this ground alone (article 124 (b) of the Code of Criminal Procedure).

(viii) The same considerations apply if the judge infringes the legal provision obliging him to notify a convicted person of the time-limit for appeal proceedings (articles 135 and 190 of the Code of Penal Procedure).

(ix) Finally, action by the courts to protect the acknowledged fundamental rights of citizens consists of:

Applying criminal law against persons who seriously infringe the rights and freedoms of others, provided, however, that a procedure is observed concerning them which permits evidence of guilt to be collected without the suspect already being considered as guilty;

Paying fair compensation for injuries inflicted on others as a result of infringement of their rights, including the right to life, the right to freedom, the right of ownership, the right to physical integrity, etc.

B. MEASURES TO PUBLICIZE THE COVENANT AND EDUCATIONAL EFFORTS

The Rassemblement Démocratique Centrafricain (RDC), the institutionalized single party (article 3 of the Constitution) informs the population of the salient provisions of the Covenant through its rank-and-file organizations. Using a national language, Sango, the RDC endorses the "concern to guarantee each individual his dignity in the context of respect for the principles of the 'ZO KWE ZO' and the 'SO ZO LA'." 8/

Further, human rights have an important place in the public international law course given at the Faculty of Law and Economic Sciences of the University of Bangui.

It would be desirable, however, for greater attention to be given to the teaching of human rights. Appropriate assistance would pave the way for the introduction of such courses, which could be extended to institutes dispensing vocational and secondary education.

C. DOMESTIC REMEDIES AVAILABLE

The actual enjoyment of a right is the proof of its existence. A person whose enjoyment of a right is totally or partially impaired may avail himself of the appropriate remedies to obtain compensation for any injury suffered.

In the Central African Republic, two types of legal remedy have been established - the administrative remedy and the judicial remedy.

(1) Administrative remedy

Individuals may seek redress for administrative decisions which are injurious to them.

(a) Informal appeal

The individual in question first requests the person responsible to rescind his decision and provides all the necessary evidence in support of his request.

(b) Appeal to a higher authority

If his initial request is unsuccessful, the individual concerned may appeal to a higher authority to change the decision in question.

(c) Appeal to an administrative tribunal

(i) If the individual concerned does not obtain satisfaction from his appeal to a higher authority, he may submit the case to a higher administrative tribunal empowered to overturn the disputed decision or to order the administrative authority to compensate the individual for any injurious consequences of its decision.

(ii) If the decision taken by the first administrative authority is upheld, the official is required to answer for his conduct in criminal, civil or disciplinary proceedings.

(2) Judicial remedy

After sentence has been passed by the criminal courts, the judge is required by Central African Republic law to inform the person under sentence of the time available to him to make use of appeal procedures, 10 days being allowed for initial appeal and 3 days for submission to the Supreme Court of Appeal. Where the person under sentence is not so informed, the sentence passed may be overturned by the higher courts (articles 135 and 190 of the Code of Criminal Procedure). On the other hand, if a person under sentence who has lodged an initial appeal fails, after being duly informed, to lodge a final appeal within the prescribed time-limit, the sentence in question becomes final.

(a) Independence of the judiciary

(i) Any legal system, even if regulated by the Constitution, legislative instruments and remedies mentioned above, may be ineffectual if the magistrates dispensing justice on behalf of the people do not enjoy greater guarantees and genuine independence in the performance of their duty.

(ii) By virtue of the separation of powers, any decision taken by another authority in a sphere within the competence of the judiciary is null and void.

(iii) Central African Republic judges, particularly when hearing a case, are not subjected to any pressure by other authorities, but judge the facts in accordance with their conscience and the law.

PART 2

Article 1: Right of self-determination

(a) The Central African Republic has acceded to the Charter of the United Nations and to international instruments proclaiming, among other principles, the right of peoples to self-determination.

(b) In addition, the Central African Republic, aware of the utmost importance attached by the international community to the observance of the fundamental right of self-determination, has, in the preamble to its Constitution, solemnly proclaimed its commitment to that principle.

(c) It provides aid and assistance to territories still under foreign domination throughout the world, including those in Africa, by honouring the commitments it has entered into in connection with the OAU Liberation Committee.

Article 2 (1): Non-discrimination (articles 2 (1), 3, 26)

(a) In the preamble to its Constitution, the Central African Republic affirms its determination to ensure the dignity of the individual through observance of the "ZO KWE ZO" and "SO ZO LA", which means that every individual, regardless of origin, must be unconditionally accepted and enjoy fully the rights recognized and protected by law. This axiom reflects clearly the philosophy of the Central African Republic people with regard to the individual.

(b) In this connection, Decree No. 66/264 and Ordinance No. 66/324, of 20 May 1966, define and prohibit respectively any manifestation of racism or tribalism throughout the territory of the Central African Republic.

(c) In addition, the reference to the ethnic origin of every new-born infant which previously had to be entered on the birth certificate was replaced in 1975 by the words "National of the Central African Republic".

Article 3

(a) In the Central African Republic, women enjoy the same rights as men in political, social and private life. Under this principle, as stated in the preamble to the Constitution, "men and women are born and remain free and equal before the law".

(b) In politics, the participation of Central African Republic women in the activities of the single party is of particular importance in that the Union of Central African Republic Women (UFCA) exerts an essential influence both at the grass-roots level of the party and in its upper echelons.

(c) Similarly, a growing number of women hold senior positions in the civil service, the army and the police. The same cannot be said of the private sector, where criteria for recruitment to senior positions often place them at a disadvantage in that they lag some way behind men as far as vocational training is concerned.

(d) In an attempt to remedy this situation, specialized institutions have been set up to enable them to train for the career of their choice, in the same way as men.

(e) With regard to private life, the Central African Republic legislature has purged national customs of all practices contrary to the principles of freedom and equality of individuals and, in general, of those detrimental to the dignity of the human person.

(f) In addition, the African dowry requiring the marriage settlement to be paid in cash by the suitor's family has been abolished on the grounds that it had finally degenerated to the point where it could be regarded as tantamount to selling an individual. The law abolishing the dowry also prohibited the return of the dowry in the event of divorce.

(g) In addition, the legislature, continuing its campaign to improve social customs, has prohibited the practice of female circumcision, which is regarded as a violation of the physical integrity of the individual punishable by imprisonment and a fine.

Article 26

(a) The equality of citizens before the law and protection of that equality is guaranteed by the Constitution, the preamble to which provides that "free access to justice shall enable every individual to defend his rights in accordance with the laws in force".

(b) The principle of equality before the courts is strictly observed in the Central African Republic where, as stated earlier, the abolition of traditional courts means that litigants may apply to the same courts and be duly heard and fairly tried by judges qualified in modern law.

(c) Legal assistance and the rights of the defence are guaranteed by the legal system and the accused may, if he so wishes, appeal to a higher court if he regards the decision of a given court as unjust.

Article 27

Measures taken to benefit national minorities include the construction of schools and health centres at Mongoumba to enable the Pygmies, who are generally isolated in their strictly tribal way of life, to develop closer ties with civilization. However, they retain their right to be different while benefiting from the special measures taken by the national authorities. Similar measures have also been envisaged with a view to sedentarizing the Bororos (Peuls), nomadic herdsmen in the Ouaka, Ouham, Basse-Kotto and Nana-Mambéré regions.

Article 6: Right to life

(a) The right to life is guaranteed by the Constitution, the preamble to which states that the people of the Central African Republic is "motivated by the concern to guarantee each individual has dignity in the context of respect for the principles of the 'DU ZO KWE ZO' and 'SO ZO LA'".

(b) The human person is sacrosanct, and the State has an obligation to respect and protect it.

(c) Accordingly, in the Central African Republic, the death penalty, although not abolished, is applicable only in the cases of voluntary homicide referred to in Act No. 61/239, of 13 May 1961, establishing the Criminal Code of the Central African Republic, and the amendments thereto, namely:

Murder, parricide and poisoning, homicide committed with a view to cannibalism, any act of cannibalism (article 174);

Attempts to undermine the external security of the State (articles 51, 53, 55 et seq. and 59, 65, 66);

Voluntary homicide preceded, accompanied or followed by another homicide or homicide committed with a view to preparing for, facilitating or committing an offence, or aiding the escape or ensuring the impunity of the principals or the accessories to such offence (article 176);

Crimes and offences against the internal security of the State (article 73);

Kidnapping of a child leading to the child's death (article 213 (3));

Unlawful arrest, detention or restraint and physical torture of individuals (article 210 (4));

The inflicting of injuries, delivering of blows or withholding of nourishment resulting in death, even if such was not the intention of the perpetrator (article 187);

Death resulting from the crime of castration (article 189 (2)).

(d) However, no death sentence may be carried out on national or religious holidays, or on Sundays. Furthermore, if a woman sentenced to death declares herself to be pregnant and if such declaration is found to be true, the death penalty shall not be carried out until after delivery (article 11 (4) and (5)).

(e) The President of the Republic may, in pursuance of article 15 of the Constitution, exercise his power of clemency by commuting a sentence of death to one of life imprisonment.

Article 8: Prohibition of slavery and forced labour

(a) One of the principles proclaimed in the preamble to the Constitution of the Central African Republic is that:

"The person is inalienable. No one may take or give the labour or services of another without fair and freely negotiated compensation".

(b) The Criminal Code of the Central African Republic lists the following offences:

Action by a group of individuals bound by a contract of any kind to deprive any person of his freedom, whether for a consideration or otherwise;

Procuring or soliciting for prostitution or any act liable to promote the spread of prostitution.

(c) Under the law, some crimes and offences may carry a penalty of forced labour for life or for a set period.

(d) There has been no recorded case of slavery in the Central African Republic and, given the legal measures taken in this regard, it is highly unlikely that any case involving any form of slavery could occur.

(e) The Labour Code prohibits forced labour in respect of employed labour and permits each citizen to practise the trade or profession of his choice, provided that his intellectual and physical abilities so permit.

Articles 7 and 10: Treatment of detainees

(a) Prison conditions are still inadequate, even though the treatment of prisoners has undergone a marked improvement since 1981.

(b) Prisoners serving sentences or awaiting trial are not subjected to inhuman, degrading or cruel treatment.

(c) Prisoners may be visited by members of their families, their attorneys, ministers of religion, doctors and other persons.

(d) There is still room for improvement in this area since, at the moment, all efforts are being directed towards improving the country's economic capacity, which is a prerequisite for any action to improve prison conditions.

Articles 12 and 13: Liberty of movement

Article 12

(a) Under the Constitution, "the right to leave and return shall be exercised freely in accordance with the applicable laws and regulations".

(b) Liberty of movement is further guaranteed by Act No. 63/443 of 3 February 1963, on the free movement of nationals of the Central African Customs and Economic Union (CACEU) and nationals of the European Economic Community (EEC) countries.

(c) This practice has been extended to nationals of such countries as the United States of America and Liberia.

(d) In order to ensure security and public order, however, special provisions have been introduced to regulate the free movement of individuals throughout the national territory.

(e) For example, residence restrictions do exist in respect of convicted persons, who may be prohibited from visiting certain areas. The list of prohibited areas is drawn up by the administrative authority in the form of collective or individual orders. It is communicated to the convicted person before his release by the authority in question. In such cases, the residence restriction comes into effect on the same day (Criminal Code, article 18, (1) (4)).

(f) Where the list is not communicated during detention, the residence restriction comes into effect on the day of release (article 18, (5)).

(g) Title III, article 9, of Act No. 60-79, on residence of aliens in the Central African Republic, provides that aliens who have immigrated to the Central African Republic or have elected to take up residence there may move freely within the country, except where reasons of security and public order require otherwise. Any collective or individual measure is announced in the press, on the radio or by any other means provided for in article 17 of the above-mentioned Act.

(h) Act No. 64-13 of 6 May 1964, establishing the conditions for entry of foreign tourists into the Central African Republic, requires them, in article 2, to make use of official entry points and makes their entry conditional upon presentation of:

A valid passport or travel document;

A bond;

International vaccination certificates;

A transit or short-term or long-term residence visa;

A tourist or return ticket.

(i) Aliens are also free to choose their residence. Aliens wishing to change their residence or occupation within or outside the country must, prior to departure or taking up such activity, obtain the approval of the competent administrative authority in the locality in question.

(j) Residence and movement within mining areas is governed by Decree No. 60/24 of 26 January 1960.

(k) Article 3 of that Decree prohibits aliens from travelling or establishing themselves in mining areas, unless they have been issued with an appropriate travel authorization. Similarly, immigrants outside such zones must present a permanent travel authorization if they wish to travel through, or take up residence in, such zones.

(l) To obtain such authorization, they must purchase the appropriate revenue stamps, to be affixed to the alien identity card upon taking up residence.

(m) Aliens from adjoining countries must enter through official entry points.

(n) The law also requires Central African Republic nationals travelling abroad or wishing to emigrate to:

Be in possession of an international vaccination certificate;

Be in possession of a tourist or return ticket;

Be in possession of an exit visa signed by the competent authority;

Have paid the airport tax;

Be in possession of a discharge attesting to the fact that they have honoured their obligations towards the Public Treasury, the tax authorities, the National Water Company, the Central African Republic Energy Authority, the Central African Republic Social Security Office and the various local banks.

(o) The exit conditions for aliens are established in the aforementioned Act No. 64/13.

(p) Any alien wishing to leave the national territory must present the following documents to the border control authorities:

A valid passport or alternative travel document;

A ticket;

An international vaccination certificate;

Discharges for the payment of outstanding debts.

(q) He may then, on request, have the caution money returned.

(r) It would seem from these requirements that the Central African Republic has a tendency to restrict freedom of movement, but this can easily be explained by a desire to protect a certain category of Central African Republic workers most of whom have encountered inhuman conditions abroad, and also a concern to develop the country's economic capacities.

(s) Act No. 61/212 of 20 April 1961, containing the Nationality Code, as amended by Ordinance No. 66/64 of 30 August 1966, sets out the rules relating to nationality.

(t) Under this Act, Central African Republic nationality may be:

A nationality of origin;

A nationality acquired through marriage, consanguinity or naturalization. Since loss of nationality results from an intentional act, only acquired nationality may be withdrawn.

(u) In the Central African Republic, a person who has acquired nationality enjoys all the rights attaching to it as from the day on which he acquired it, subject to the disabilities provided for in article 41 of the Nationality Code, which states that:

"A naturalized alien is subject to the following disabilities:

(1) During the three years following the naturalization order he cannot vote when it is necessary to have the status of a Central African Republic national to be included in the electoral rolls;

(2) During the five years following the date of naturalization he cannot hold any elective post or mandate for the exercise of which it is necessary to have the status of a Central African Republic national;

(3) During the three years following the date of naturalization he cannot be State-employed, called to the bar or appointed to ministerial office".

(v) However, the above disabilities may be lifted, either wholly or in part, in the case of a naturalized person who has performed exceptional services or whose naturalization is particularly desirable (article 42).

(w) The Ministry of the Interior may decide to withdraw Central African Republic nationality from a naturalized person coming under the following provisions of article 52 of the Nationality Code:

"Central African Republic nationality may be withdrawn from any person who:

Has been sentenced for an act classed as a crime or offence against the internal or external security of the State;

Has been sentenced for an act classed as a crime or offence against the institutions;

Has engaged, on behalf of a foreign State, in acts incompatible with the status of Central African Republic national and harmful to the interests of the Central African Republic;

Has been sentenced in the Central African Republic or abroad for an act classed as a crime by the law and involving a sentence of at least five years' imprisonment without possibility of remission."

(x) Withdrawal of nationality which is only incurred if the facts in question occurred within 10 years of the date of naturalization, is pronounced by decree and does not apply to minors who are of foreign origin or retain foreign nationality. It cannot be applied to minors unless it is also applied to the spouse.

(y) To sum up, Central African Republic nationality is granted by law, and loss of nationality results from an intentional act. This means that certain categories of persons cannot be deprived of the right to live in, leave and return to the Central African Republic.

Article 13

The rights of aliens are guaranteed by Act No. 64-13 of 28 April 1964.

(a) In accordance with this law, an alien cannot be turned back at the frontier of the Central African Republic unless he fails to comply with the conditions of entry; if he has committed serious crimes or offences the administrative measures of expulsion or extradition shall be applied.

(b) Expulsion decisions are taken by the Minister of the Interior. The person expelled may, however, appeal to the judicial or administrative authorities to revoke the Minister of the Interior's decision.

Article 18: Freedom of thought, conscience and religion

(a) The Constitution of the Central African Republic, dated 21 November 1986, gives high priority to freedom of thought, conscience and religion, with regard to which it states in its preamble:

"There shall be no discrimination on the grounds of wealth, race or creed freely practised by an individual."

(b) As regards legislative measures, title VIII, article 43, of the Constitution provides that:

"The institutions provided for by this Constitution shall be established within the 12 months following the promulgation of the Constitution. During this period, the President of the Republic shall be empowered to adopt by means of ordinances measures coming within the purview of the law."

(c) This transitional provision merely reflects the absence of an Assembly and of legislative instruments.

(d) However, as has been said above, the Government has not waited to make a move in this regard. The Central African Republic has thus authorized all religious manifestations in its territory, and the major religions as well as the syncretic sects have undergone an unprecedented revival since 1981.

(e) The only restriction so far imposed continues to be the prohibition of Jehovah's Witnesses on the grounds of the preservation of national unity and the good name of the State. Despite the provisional closure of their churches, however, the Jehovah's Witnesses continue their activities.

Article 19: Freedom of expression

(a) Freedom of expression is among the principles set out and guaranteed by the Constitution.

(b) The only legislative measures provided for are those concerning insults against the representatives of the public authorities or threats and violence against them.

(c) The legislative texts provide for the repression of such offences (Criminal Code, chapter VI, articles 130 to 142).

(d) The institutionalization of the single party, the Rassemblement Démocratique Centrafricain (RDC) does not constitute a restriction on freedom of expression. On the contrary, the main aim of this political grouping is to unite all the country's social and ethnic strata with a view to strengthening national unity.

(e) In the party cells, Central African Republic nationals participate, collaborate and discuss issues relating to politics and thus to the State itself. There are no impediments to this freedom.

(f) This right is restricted by the requirements of the texts and regulations and by respect for others.

(g) In the Central African Republic there is no censorship of books. However, according to article 253 of the Criminal Code:

> "Any dissemination or publication of writings, musical compositions, drawings or paintings, or any production, printed or engraved wholly or in part, in breach of the regulations concerning copyright is fraudulent and shall be treated as an offence."

Articles 20 and 22: Freedom of assembly and association

(a) This principle is embodied in the preamble to the Constitution, which lays down:

> "The right to come and go, and the right of expression and assembly shall be freely practised in conformity with the applicable laws and regulations."

(b) All meetings organized outside the party which are of a political nature or are liable to disturb public order are forbidden throughout the territory.

(c) Pupils' and students' associations, parents' associatiosn, women's associations, the national doctors' association, the association of disabled persons, etc. are emerging and playing an indirect but beneficial role. They are inspired for the most part by international rules intended to protect the most elementary rights of individuals, and are a reaction to the abuses experienced under the Empire.

(d) The most famous example of the contribution of associations to the protection of human rights was the refusal by the College of Central African Republic Physicians, invoking the Hippocratic oath which they had sworn and also their status, to take part in 1972 in operations to cut off ears; subsequently the decree authorizing this mutilation of the physical integrity of individuals was repealed.

(e) The law forbids and severely punishes associations of criminals or officials with the aim of harming others or bringing the administration to a halt (articles 87 and 163 of the Criminal Code).

(f) The legislature has maintained an unfortunate silence regarding the earlier suspension of trade union associations and the right to strike.

Article 25: Political rights

(a) Article 3 of the Constitution reads as follows:

"The Rassemblement Démocratique Centrafricain, the sole party, encompasses within itself the entire nation. It represents the various segments of the population and participates in the expression of the electorate's will".

(b) The party is open to all citizens, and, despite the brevity of its existence, already benefits from the sure support of the population; it seeks ways and means of organizing the socio-economic development of the population, and indubitably constitutes a reaction to the disorder which characterized a short-lived and misunderstood multi-party system.

Article 9: Liberty and security of person

The rights attaching to security of person are protected by the Constitution which includes the following among the principles embodied in the preamble:

"The human person is inalienable".

The provisions of the Criminal Code further safeguard this right, since they forbid all forms of arbitrary arrest or detention.

(a) Arrest

(i) Arrests may be carried out in the following cases:

During the investigation of flagrant offences or a judicial inquiry or for the purpose of enforcing an arrest warrant or carrying out a sentence - on preventive grounds;

For detention in the event of expulsion or extradition.

(ii) The criminal police officer may, during the investigation of flagrant offences, hold the following persons in custody:

Persons who may be able to contribute information;

Suspected persons who may be charged;

Persons whose identity the criminal police officer can establish for the purposes of verification during the investigation.

(iii) The examining magistrate may, during the judicial inquiry, issue warrants to compel attendance, arrest warrants or summonses. The summons gives the accused formal notice to appear before the judge at the time specified. The warrant to compel attendance is an order given by the judge to the forces of law and order to bring the accused immediately before him.

(iv) The arrest warrant is the order to seek out the accused and to bring him to a gaol where he is admitted and detained.

(v) These warrants indicate the charge for which they have been issued and are shown to the accused by the officer, who gives him a copy of them.

(b) Pre-trial detention

(i) When the examining magistrate considers that the charges against the accused so justify, he orders the accused to be held in detention pending trial. In this case he issues a committal order which indicates the indictment and the provisions of the law which may be applicable. However the issue of a detention order is justified only if the offence carries a penalty of imprisonment.

(ii) It should be added that pre-trial detention is not the rule.

(iii) Provisional release may in some cases be granted to the accused within five days after his initial appearance for questioning if he meets the following conditions:

Being domiciled in the Central African Republic;

Not having been sentenced to a term of more than three yers for a crime or offence.

(iv) If the accused has not been questioned within 24 or 48 hours following his detention, he must immediately be granted provisional release.

(v) In other cases, the examining magistrate may order provisional release, particularly when he considers detention to serve no useful purpose or to be incompatible with the state of health of the accused, provided that the latter undertakes to appear for all stages of the proceedings and the execution of the judgment as soon as he is required to do so.

(vi) The Public Prosecutor's Department may also require his appearance within 24 hours; the examining magistrate shall in this case hand down a decision within the five days following the application for provisional release.

(vii) The indictments chamber (chambre d'accusation) is empowered to keep any accused person in custody during proceedings. The same is true of the court of summary jurisdiction, which may also grant provisional release to a person detained under a committal order of the Public Prosecutor's Department for flagrante delicto.

(viii) It should be noted that the accused or his counsel may apply to the examining magistrate for provisional release at any stage of the proceedings.

(ix) The accused may be provisionally released ex officio in two instances:

If the examining magistrate does not render a decision in the 72 hours following date of the application by the Public Prosecutor's Department, the accused may refer the matter to the indictments chamber which shall hand down a decision within five days, failing which the person held shall be provisionally released;

In the event of an appeal following a refusal by the examining magistrate, the Public Prosecutor's Department and the indictments chamber are also required to hand down a decision within five days, failing which the accused will automatically be granted provisional release.

(x) Where it is not granted automatically, provisional release may be subject to the obligation to furnish security in the form of a cash deposit by a third party or by the accused. The amount of this security is established by the examining magistrate.

(xi) It can be seen from the foregoing that the accused benefits from certain guarantees adequate to prevent the proceedings from being unduly protracted. The President of the indictments chamber plays a decisive role in that it is his responsibility to ensure that examining magistrates' offices function properly and to take the necessary steps to avoid any delay in the proceedings.

(c) Detention for the execution of a sentence

(i) Such detention results from a sentence pronounced by the court that hands down a judgement, containing a statement of the facts and the grounds and an operative part.

(ii) The operative part refers to the charges, the penalty and the legal texts applied.

(d) Expulsion and extradition

(i) Responsibility for the expulsion or extradition of aliens lies with the Ministry of the Interior which may, in the case of offences giving rise to one of these two measures, issue an order establishing the deadline by which the alien must leave the Central African Republic.

(ii) The alien may, however, apply to the courts for annulment of this administrative measure.

(e) Security measures

These concern alcoholics whose behaviour is a public danger as well as the mentally ill and persons suffering from infectious diseases, delinquents on licence, and persons convicted and released under certain conditions.

(f) Arbitrary detention

(i) Any person who has been detained, arrested or restrained without an order from the established authorities in the form of an arrest warrant without having been duly heard is considered to be arbitrarily detained.

(ii) Such persons must be questioned within 48 hours of being taken into custody, failing which they are regarded as having been arbitrarily arrested. This illegal practice and infringements of freedom are penalized by the Criminal Code. This means that no officer of the prison administration may admit and hold a person who has not been sentenced by a court or arrested under a legal warrant or order to take into custody, particularly warrants to be accompanied by provisional detention, on pain of being prosecuted and sentenced for arbitrary detention.

(iii) The Criminal Code provides that: "When a public official, an agent or a representative of the Government orders or carries out an arbitrary act or an act infringing individual freedom, the civic rights of one or more citizens or the Constitution, he shall be sentenced ... and may be deprived ... of his civic rights."

(iv) All legal instruments and texts pronounce against the practice of arbitrary arrest or imprisonment. Under the law, detention without charge by the police is limited to 48 hours, after which the detainee must either be charged or released.

(v) In the event of serious crimes, the perpetrator may be detained indefinitely while the Public Prosecutor's Department prepares the case against the accused.

CONCLUSION

1. This brief description, while far from complete, clearly indicates the desire of the authorities to reinforce the protection of civil and political rights in the Central African Republic through existing and future institutions.

2. Naturally, much remains to be done, particularly as regards:

The training of certain types of qualified staff who are so inadequate in number that administrators are delegated for judicial duties in the provinces;

Freedom of the press and unrestricted circulation of foreign newspapers;

The existence of trade unions;

The establishment of the institutions provided for in the Constitution, particularly the National Assembly;

The creation of a National Human Rights Committee;

Measures conducive to the economic growth which would have positive effects on the protection of human rights;

Lastly, courses on human rights in vocational and higher education establishments.

3. These activities are necessary since, beyond legal mechanisms or accession to the various international instruments on human rights, a favourable societal environment which includes an adequate information system within a social structure of whatever kind is likely to make individuals more familiar with the range of rights pertaining to their person and the means available to them to enforce respect for those rights, if necessary.

4. The protection of certain rights will thus cease to take the form of mere constitutional provisions or stock clauses in international conventions.

5. It must, however, be understood that the foregoing proposals only reflect inadequacies due to economic difficulties which to varying degrees condition the adoption of measures to provide satisfactory if not comprehensive guarantees for civil and political rights in the Central African Republic.

6. Furthermore, the Central African Republic, which considers itself to be a State subject to the rule of law, regards the right of peoples to self-determination as the basis of all rights and finds it surprising that many countries which have made human rights a preponderant feature of their foreign policy nevertheless continue to encourage the consolidation of apartheid and to prevent the Namibian people from enjoying its right to self-determination, and to oppose the establishment of a new international economic order.

Notes

1/ A/31/PV.25, 11 October 1976.

2/ A/33/PV.31, 11 October 1978.

3/ Articles 153 et seq., and 161 et seq., of Act No. 61/221 of 2 June 1961 establishing the Labour Code of the Central African Republic.

4/ See articles 153 et seq., and 161 et seq., of Act No. 61/221 of 2 June 1961 establishing the Labour Code of the Central African Republic.

5/ Act No. 61/262 of 23 December 1961.

6/ Act No. 62/336 of 11 December 1962 relating to the procedure in matters of flagrante delicto.

7/ Articles 4 and 5 deal respectively with crimes and offences committed in war-time and during a state of siege.

8/ Preamble to the Constitution of 4 November 1986.

9/ Decree No. 71/059 and Decree No. 72/226.